IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17774 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ARVIND MANJIBHAI DABHI

Versus

COMMISSIONER OF POLICE AHMEDABAD CITY

Appearance:

1. Special Civil Application No. 17774 of 2003

MR SATISH R PATEL for Petitioner No. 1

MR KR JANI for Petitioner No. 1

RULE SERVED for Respondent No. 1-2

MS Mita S Panchal AGP for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE D.P.BUCH

Date of decision: 07/04/2004

ORAL JUDGEMENT

The petitioner above named has preferred this petition under Article 226 of the Constitution of India for appropriate writ, order or direction, for quashing and setting aside an order of detention dated 05/11/03 passed by respondent no.1 herein, in exercise of the powers u/s.3(2) of the Gujarat Prevention of Anti Social Activities Act, 1985 (for short, "the said Act").

2. It was alleged against the petitioner that three prohibition offences were registered against him before Eastern - Southern Division Police Stations at C.R.No.820 / 2003, 907 / 2003 and 1619 / 2003 on 28/06/03, 18/07/03 and 01/11/03 respectively. On the strength of the aforesaid three registered offences, the detaining authority found that the petitioner was a "bootlegger" and his activities amounted to a threat to public order and therefore, he was detained.

3. Feeling aggrieved by the said order of his detention, the petitioner has preferred this petition before this Court. It has been contended here that on a mere fact that three offences were registered, it could not be said that his activities amounted a threat to public order. That therefore, the order of his detention is illegal and it may be quashed and set aside.

4. On receipt of the petition, Rule was issued and in response to the service of notice of Rule, Ms.Mita S Panchal learned AGP appeared on behalf of the respondents. The learned AGP produces affidavit, which is taken on record. I have heard the learned advocates for the parties and have perused the papers.

5. On going through the records, it is found that three offences punishable under the Bombay Prohibition Act, 1949, were registered against the petitioner. Mere registration of a few prohibition offences would not lead to a threat to public order or public health. In that view of the matter, the order of detention cannot be sustained in the eye of law.

7. For the foregoing reason, this petition is allowed. The impugned order of detention dated 05/11/03 passed by respondent no.1 against the petitioner, is ordered to be quashed and set aside. Detenu, Arvind Manjibhai Dabhi, is ordered to be set at liberty forthwith, if no longer required in any other case. Rule is made absolute with no order as to costs. Direct service permitted.

(D. P. Buch, J.)

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